



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, }  
12 Plaintiff, }  
13 v. }  
14 STEVEN ERIK PROWLER, }  
15 Defendant. }  
16 \_\_\_\_\_ }

No. CR 06-00391 CBM

FINDINGS RE: SENTENCING

17  
18 The matter before this Court is the imposition of sentence for Defendant Steven  
19 Erik Prowler.

20  
21 Defendant was charged with 10 counts in the first superseding indictment. Counts  
22 1 and 3 charge a violation of 18 U.S.C. §2423(c) traveling from Los Angeles to Thailand,  
23 where he engaged in illicit sexual conduct with boys under the age of 18 years. Count 1  
24 charged Defendant for conduct commencing March 17, 2003 through April 10, 2003.  
25 Counts 2 and 3 charged Defendant for conduct commencing March 17, 2003 through  
26 June, 10, 2003 and June 12, 2003, respectively. Counts 5 through 9 charged violations of  
27 18 U.S.C. §2423(c) for similar conduct, but on different dates commencing October 24,  
28 2004.

1  
2       Defendant pled guilty to Counts 4 and 10. Count 4 charges a violation of 18  
3 U.S.C. §2423(c) based on Defendant's April 17, 2005 travel from Los Angeles,  
4 California, to Bangkok, Thailand, on a non-immigrant Visa. On May 10, 2005, while  
5 Defendant was still residing in Thailand pursuant to the Visa, Defendant engaged in a  
6 commercial sex act with John Doe A, a Thai male minor, as defined in 18 U.S.C. §  
7 2423(f). Count 10 charges a violation of §2423(b), traveling from Los Angeles to  
8 Thailand on October 24, 2004, for the purpose of engaging in illicit sexual conduct. All  
9 remaining counts were dismissed.

10  
11       Defendant admitted that while living in Thailand in 2000, Defendant started seeing  
12 adolescent boys for oral sex. He said he would both give and receive oral sex with 5 to 7  
13 boys a month.

14  
15       Defendant admitted taking photographs of boys, such photographs were found in  
16 his apartment.

17  
18       Defendant admitted going to an internet café and downloading photos and  
19 drawings of young boys without clothing.

20  
21       Defendant said that he would ask boys to cut their own pubic hair which he would  
22 collect in bags as a souvenir or memento of the sexual activities with said boys. Police  
23 recovered from Defendant's home numerous pubic hair cuttings that were stored in either  
24 envelopes or small pill boxes.

25  
26       When asked how many boys he had been with sexually since 1997 to 1999,  
27 Defendant initially replied 6 to 7 boys per month. He then amended his response to 3 to 4  
28 boys per month.

1 In calculating guidelines the Court found as follows:

3	Base offense level: U.S.S.G. §2G1.3:	24
4	Specific offense characteristics: U.S.S.G. § 2G1.3(b)(4):	2
5	Role in the office:	0
6	Victim adjustment: U.S.S.G. § 3B1.4:	2
7	Obstruction of justice:	0
8	Adjusted offense level:	28
9	Multiple count adjustment: U.S.S.G. § 3D1.2:	4
10	Pattern of activity: U.S.S.G. § 4B1.5(b):	4
11	Acceptance of responsibility:	-3
12	Total offense level:	33
13	Criminal history category:	1
14	Guideline sentence:	151-188 months
15	Supervised release:	Life
16	Fine:	Not applicable

17  
18 The guidelines that are used for purposes of calculating sentences is the guideline  
19 of 2006, with which both sides agree.

20  
21 Defendant negotiated a plea with the Government wherein paragraph 16b, he  
22 specifically acknowledged that the Court could consider the dismissed counts in  
23 calculating the guideline range and the Court has done so.

24  
25 U.S.S.G. §3D1.2(b) was applied pursuant to U.S.S.G. §2G1.3(d)(1). The Court  
26 grouped the Counts together because they involved two or more acts or transactions  
27 connected by a common criminal objective constituting part of a common scheme or plan.  
28 The conduct which is the basis of the multiple count adjustment is the conduct engaged in

1 with Minors A-F; Minor A is included in Count 4; Minors C, D and E the conduct of  
2 November 14, 2004 and Minor F, the conduct of December 19, 2004.

3

4 Defendant admits in his handwritten journal that while traveling in Thailand he  
5 engaged in commercial sex acts with Minors C, D, and E. The Court finds defendant  
6 engaged in prohibited sexual conduct on at least two separate occasions with a minor;  
7 therefore, the Court applies a 4 point adjustment for pattern of activity per 4B1.5.

8

9 The Court finds that the application of the multiple count adjustment and pattern of  
10 practice adjustment does not violate multiple counting analysis, but is necessary to reflect  
11 the full extent of wrongfulness of the defendant's conduct.

12

13 The Court finds that the vulnerable victim guideline does not apply in this case  
14 because the charging statutes were designed to protect victims of low socioeconomic  
15 status. *See U.S. v. Castaneda*, 239 F3d 978, 982-83 (9<sup>th</sup> Cir. 2001).

16

17 The Court finds pursuant to 18 U.S.C. §3553(a)(2) that there exists an aggravating  
18 circumstance that warrants an upward departure which has not been taken into  
19 consideration by the Sentencing Commission in formulating the guidelines. The  
20 aggravating circumstances are as follows:

21

22 • Subsequent to his arrest, a search of Defendant's apartment revealed over 100  
23 photographs of naked Thai boys ranging in age from 14-16 years. Defendant  
24 prepared index cards containing the names and ages of the boys, including one  
25 entitled, "youngest boys," and others entitled, "new boys." The boys ranged in  
26 ages 7 to 18 years. The Defendant kept handwritten daily journals, the writing  
27 covered almost the entire circumference of each page of both the front and back.  
28 The entries included graphic descriptions of prohibited sexual conduct with boys

1 and payment for sex.

2

3 • Defendant kept monthly ledgers beginning in 1999 continuing through 2005,  
4 which contained the names of boys, age, date of conduct and how much was paid.

5

6 • Defendant admits engaging in prohibited sexual activity with over 200 boys, which  
7 is 20 times the number set by the Sentencing Commission. The extraordinary  
8 number of victims and the unquantifiable and enduring harm that they may suffer  
9 are aggravating factors. The statutory maximum penalty on both counts is 30  
10 years each. Therefore, the Court finds that a 25-year sentence is consistent with  
11 the kinds of sentences available.

12

13 • The Court also finds the Defendant is a predator. The conduct took place over a  
14 five-year period and defendant admitted that he went to Thailand for the purpose  
15 of molesting minors.

16

17 Defendant also requested minors to find younger minors, which they did, and  
18 defendant molested those younger minors. Defendant's acts were extraordinary. The  
19 Court finds that the sentence imposed is not disparate and considers *U.S. v. Frank*, 599  
20 F.3d 1221 (11<sup>th</sup> Cir. 2010).

21

22 The Court departs upward based on Section 2G1.3 and 5K.2.0.

23

24 Application Note 7 for Section 2G.1.3 provides for an upward departure when  
25 dealing with more than 10 victims. It is undisputed that we are dealing with more than 10  
26 victims in this case.

1           Defendant has not articulated any plans upon release from prison, although in  
2 prison he is engaged in a number of activities, received a number of certificates, and the  
3 Court has considered those in imposing a sentence.

4

5           The Court considered the factors in 18 U.S.C. §3553(a), as described on the record  
6 at the sentencing hearing.

7

8 THE COURT SO FINDS.

9

10 DATED: September 24, 2010

11 By   
12 CONSUELO B. MARSHALL  
13 UNITED STATES DISTRICT JUDGE